IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.433 OF 2006

Hardas Sanmukh Makhija & ors. Applicants
versus
The State of Maharashtra Respondent

Shri V.N.Tayade for applicants.

Shri Subhash Jha i/by M/s.Law Global for respondent no.2.

Smt.M.M.Deshmukh, APP.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18th September 2006

PC :

1. The applicants are original accused in FIR No.I-291/2005 which is filed by the second respondent. The offence alleged are punishable under sections 341, 452, 458, 143, 147 along with Section 468 of IPC..

2. With the assistance of Shri Tayade I have perused the petition and the FIR so also other annexures. I have also perused the affidavits filed on record.

3. Although, it appears that the groups within the Congress Party are trying to stake their claim to the party office, from a perusal of the relevant materials, it appears, prima facie, that the offences alleged under the above provisions have been committed. This is not a case where the FIR does not disclose commission of any offence. On the other hand, Police intervention was needed to open the office of the Congress Party which was closed. Yet, both sides continued to dispute the fact that neither the petitioner no.1 nor respondent no.1 is the authorised District Congress Committee President. In my view, the materials relied upon by Shri Tayade including the fact of delay, are such as can always be produced at the stage of trial. At this stage it cannot be said that investigation is required to be quashed. This prima facie view would not in any way prevent the parties from raising appropriate contentions and for the learned Judge to take cognizance of the same so also passing appropriate orders in accordance with law. All contentions on merits are expressly kept open.

4. At this stage, it is to be noted that due to the fight within the Congress Party the above

incident took place and the FIR was lodged. In such circumstances, no case is made out for interference either under Article 226 of Constitution of India or Section 482 of Cr.P.C.. Petition dismissed.

(S.C.DHARMADHIKARI, J.)